

## **TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 713, 1050, 7071, 7075, 7078, 8591, 8841, and 8842 of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 1700, 7050, 7055, 7056, 7070, 7071, 7075., 7078, 8590, 8591, 8593, 8595, 8841, and 8842 of said Code, proposes to add sections 56.00 and 56.01 and amend sections 120, 120.1, and 705, Title 14, California Code of Regulations, relating to California Pink (Ocean) Shrimp, *Pandalus jordani*, fishery management plan implementing regulations and Form DFW 1419.

### **Informative Digest/Policy Statement Overview**

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR), and all references to the pink shrimp (*Pandalus jordani*) fishery refer to the commercial pink shrimp fishery.

This proposal would implement the California Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan (FMP). The effort to develop and implement this FMP began in 2017, and the adoption of the FMP by the Commission is expected in April 2022. The purpose of the FMP and its implementing regulation is to update the management of California's pink shrimp fishery to be in line with Oregon and Washington. Updating the fishery's management would also assist the fishery in obtaining the Marine Stewardship Council (MSC) certification. This effort is expected to result in a more sustainable and less environmentally impactful fishery.

This regulatory proposal will add Article 7, sections 56.00 and 56.01, amend sections 120 and 120.1 to implement the FMP and amend Section 705. The proposal will add a set of reference points that is part of a Harvest Control Rule (HCR) originally developed by scientists from the Oregon Department of Fish and Wildlife (ODFW) and adapted for use in California. In addition, the proposal will also add a Footrope Light Device (FLD) requirement to reduce bycatch of the threatened southern distinct population segment of eulachon (*Thaleichthys pacificus*). This proposal will make the following amendments:

- Adding Section 56.00 to describe the adoption of the FMP, its consistency with the Marine Life Management Act, and the Fish and Game Code subsection, subsection 8842(b), would be made inoperative as it applies to the pink shrimp fishery.
- Adding Section 56.01 to clarify the role of the FMP and to incorporate it into regulation by reference.
- Amend subsection 120(b) to clarify that pink shrimp trawling is prohibited within state waters except as permitted by the Commission.
- Adding subsections 120.1(b)(1)-(4), pink shrimp may be taken April 1 through October 31, except when the stock is deemed vulnerable under the HCR.
- Add a new subsection 120.1(c)(2), which will require pink shrimp trawl vessels operating north of Point Conception, Santa Barbara County to use FLDs.

- Amend subsection 120.1(e) to improve the clarity and enforceability of the rule requiring minimum count of 160 shrimp per pound.
- Add new subsections 120.1(f)(1)-(4) which stipulates how businesses must estimate the weight of pink shrimp landings when landed mixed with ice; this is necessary to ensure consistent estimation and reporting of the accurate weight of pink shrimp landed as required by section 197.
- Updating form FG 1419 (Rev. 5/13), the Northern Pink Shrimp Trawl Vessel Permit Transfer Application, to DFW 1419 (New 01/01/22) as incorporated by reference in Section 705.

#### Benefit of the Regulations:

The proposal would ensure the long-term sustainability and viability of the pink shrimp fishery in accordance with the objectives of the Marine Life Management Act through the precautionary measures implemented by the HCR. The proposed FLD requirement is expected to greatly reduce eulachon bycatch. These requirements are already required in Oregon and Washington; implementing the requirements in California will bring the state's pink shrimp management in line with that of Oregon and Washington. Bringing California's pink shrimp management in line with other states will also facilitate the fishery's effort to obtain MSC certification. Another added benefit if California's pink shrimp fishery obtains MSC certification is a reduced need for shrimp caught off northern California waters to be landed in southern Oregon ports, thus supporting the return of landings to California ports and reduce fuel consumption for many vessels and greenhouse gas emissions. Updating FG 1419 to DFW 1419 would modernize the form and improve processing.

#### Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt the implementing regulation of an FMP (FGC section 7078). No other state agency has the authority to adopt FMP implementing regulations. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of FMP implementing regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

#### Public Participation

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Los Angeles/Orange County area of California, on **Wednesday, June 15, 2022** at 8:30 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. June 2, 2022 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or

emailed to the Commission office, must be received before 12:00 noon on June 10, 2022. All comments must be received no later than June 15, 2022, at the hearing to be held in the Los Angeles/Orange County area of California. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

### **Availability of Documents**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Maurene Trotter at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Tom Mason, Senior Environmental Scientist Supervisor, Department of Fish and Wildlife, ([R7RegionalMgr@wildlife.ca.gov](mailto:R7RegionalMgr@wildlife.ca.gov)), has been designated to respond to questions on the substance of the proposed regulations.**

### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:  
  
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action is expected to augment California competitiveness by bringing landings to ports in California in conjunction with MSC certification.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in

California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates positive impacts on the creation of jobs, the creation of new business, and the expansion of businesses related to California pink shrimp commercial fishing activity in California. The Commission does not anticipate any impacts on the elimination of jobs or the elimination of existing businesses. The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety. Benefits to the state's environment are anticipated through a more sustainable pink shrimp fishery and through the reduction of bycatch, particularly of federally threatened eulachon.

(c) Cost Impacts on a Representative Private Person or Business:

The proposed FLR lighting requirement on trawl lines is estimated to cost pink shrimp trawlers an estimated \$275 initially and \$175 in ongoing annual maintenance costs.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Commission anticipates that there will be costs to the state, specifically the Department. Program implementation costs are estimated to be \$24,119 per fiscal year. These additional costs will be absorbed within existing Department budgets. No effects on federal funding to the state are anticipated.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

**Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

## **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: March 15, 2022

Melissa Miller-Henson  
Executive Director